

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BRANDON MONTGOMERY, :
 :
 Petitioner, : CIVIL ACTION NO. 3:10-CV-14
 :
 v. : (JUDGE CONABOY)
 : (Magistrate Judge Mannion)
 :
 RONNIE HOLT, :
 :
 Respondent. :
 :
 :

FILED
SCRANTON
APR 15 2011
PER DEPUTY CLERK

ORDER
AND NOW, THIS 15th DAY OF APRIL 2010, IT IS ORDERED

TO THE COURT THAT:

1. Petitioner, an inmate at the United States Penitentiary Canaan, Waymart, Pennsylvania, filed this Petition for Writ of Habeas Corpus *pro se* on January 25, 2010, pursuant to 28 U.S.C. § 2241 (Doc. 1);

2. The matter was assigned to United States Magistrate Judge Malachy E. Mannion who issued a Report and Recommendation (Doc. 18) on March 17, 2011, recommending that the instant petition be denied (*id.* at 10);

3. No objections were filed to the Magistrate Judge's Report and Recommendation and the time for such filing has passed.

IT FURTHER APPEARING TO THE COURT THAT:

1. When a magistrate judge makes a finding or ruling on a motion or issue, his determination should become that of the court unless objections are filed. See *Thomas v. Arn*, 474 U.S. 150-53

(1985). Moreover, when no objections are filed, the district court is required only to review the record for "clear error" prior to accepting a magistrate judge's recommendation. See *Cruz v. Chater*, 990 F. Supp. 375-78 (M.D. Pa. 1998); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998).

2. We find no clear error in the Magistrate Judge's conclusion that this Petition for Writ of Habeas Corpus should be denied. Magistrate Judge Mannion's thorough analysis of Petitioner's claim that his state and federal sentences should run concurrently supports his conclusion that this action should be dismissed. Specifically, we find no clear error in the Magistrate Judge's determination that Bureau of Prisons properly computed Petitioner's sentence. (Doc. 18 at 9.)

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. The Magistrate Judge's Report and Recommendation (Doc. 18) is **ADOPTED**;
2. The Petition for Writ of Habeas Corpus (Doc. 1) is **DENIED**;
3. There is no basis for the issuance of a certificate of appealability in the Court of Appeals for the Third Circuit;
4. The Clerk of Court is directed to close this case.



RICHARD P. CONABOY
United States District Judge